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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
PTB-**5091**-7

Application Number	Filed
10/590,452	April 24, 2007
First Named Inventor	
WOODHAMS	
Art Unit	**Examiner**
3654	Eric E. Pico

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ Applicant/Inventor

☐ Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)

☒ Attorney or agent of record 38,009 (Reg. No.)

☐ Attorney or agent acting under 37CFR 1.34.
Registration number if acting under 37 C.F.R. § 1,34 _____

/Paul T. Bowen/
Signature

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April 27, 2009
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*

☒ *Total of 1 form/s are submitted.

STATEMENT OF ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 7, 8, 10, 12 and 13 were rejected under 35 U.S.C. §103(a) over NL Publication No. 1020911 in view of Forbes (U.S. Patent No. 1,237,627). The final rejection includes the errors that follow.

Independent claim 7 is directed to a method of providing a stairlift installation on a staircase having a first step having a level above a floor from which the staircase extends. The method comprises a stairlift installation on a staircase having a first step having a level above a floor from which the staircase extends, comprising providing a rail having a main section arranged at the angle of the staircase and a lower section extending from the main section, the lower section curving downwardly from the main section to terminate substantially on the first step, providing a carriage mounted on the rail for movement along both said main section and said lower section providing a footrest mounted on the carriage for displacement with the carriage, and constructing and arranging the rail and the carriage to ensure that, when the carriage is at a lower most position on the lower section of the rail, the footrest is positioned below the first step level.

Similarly, claim 8 is directed to a stairlift for use in a staircase having a first step having a level above a floor in which the staircase extends. The stairlift comprises a rail having a main section arranged at the angle of the staircase and a lower section extending from the main section, the lower section curving downwardly from the main section to terminate substantially on the first step, a carriage mounted on the rail for movement along both said main section and said lower section, and a footrest mounted on the carriage for displacement with the carriage, the rail and carriage being constructed and arranged such that, when the carriage is at a lower most position on the lower section of the rail, the footrest is positioned below the first step level.

The Examiner argues that the invention claimed in claims 7, 8, 12 and 13 are unpatentable over Vroegindeweij et al. NL Publication No. 1020911 in view of Forbes US Patent 1237627. This argument was previously raised in relations to claims 9-11.

As previously submitted one objective of the present technology is to provide a stairlift installation which allows the rail to be terminated at the first step, yet still allows the footrest to be positioned below the first step to allow a handicapped user to easily mount, or dismount from, the stairlift. As described in the Background to the Invention, a stairlift installation is typically

provided with a hinged rail section at the lower end of the rail to achieve this objective. The articulating carriage locating arms shown in Vroegindeweij, are an alternative to the conventional rail hinge but, unlike the present technology, require additional drive motors and linkages.

The present technology requires no extra components in order to achieve the same result as a hinge. Instead, the technology – as manifested in claims 7 and 8 - cleverly combines a downward curved lower rail section terminating on the first step, with a carriage arrangement which allows the carriage to traverse the downwardly curved rail section and position the footrest below the level of the first step.

It is conceded that Vroegindeweij shows a stairlift having a rail terminating at the first step of a staircase and a carriage which, when in the lowermost position, has a footrest which is positioned below the level of the first step. However, this footrest positioning is achieved by detaching the carriage from the rail. Detaching the carriage from the rail generates stability problems and necessitates a complex and expensive arrangement of linkages and drives.

In contrast the claims of the present invention are directed to a stairlift installation in which the carriage at all times remains in contact with a unitary rail. As submitted, the technology was devised to avoid the shortcomings of stairlifts exemplified by Vroegindeweij.

Similarly, it is conceded that the rail of Forbes has a downwardly curving lower section however, this section is clearly not traversed by the carriage. As the Examiner suggests in paragraphs 25 and 28 of the latest office action, the 'rounded termination' provides a form which harmonizes the rail to the stairway but, in the case of the present technology, the downwardly curving rail section is engaged by the carriage and defines the lower path of the carriage which allows the footrest to be securely positioned below the level of the first step.

Looking at Fig 1 of Forbes, the platform 32 is clearly in its lowermost position because the platform 32 is resting on the sub-step 33. Thus the carriage 38, and in particular the support wheels 44, are physically prevented from engaging the downwardly curved section of the rail. Vroegindeweij does not suggest that one could extend the path of carriage further down on to the downwardly curved rail section to achieve a lower footrest height because Vroegindeweij addresses the problem in a totally different way – by detaching the carriage from the rail.

As the Examiner recognizes, the downwardly curved rail section of Forbes is there for aesthetic reasons. In complete contrast, in the case of the present technology, the downwardly curved rail section has a very specific function defining the path of the carriage.

It is thus submitted that there is no logical reason the combine the teachings of Vroegindeweij and Forbes to arrive at the invention claimed in claims 7, 8, 10, 12 and 13.

Accordingly, there is no basis to sustain the Final Rejection. As such, the Board is urged to return the case to the Examiner requesting that a Notice of Allowance be issued.